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IN THE

Supreme Court of the United States

OCTOBER TERM, 1949.

No. 742

THE ARLINGTON, INC. and STURM-BICKEL CORPORATION, Illinois Corporations,
Petitioners,

vs.

EDWARD MAYER,
Respondent.

STATEMENT BY RESPONDENT IN REPLY TO PETITION OF THE ARLINGTON, INC. AND STURM-BICKEL CORPORATION, PETITIONERS, FOR WRIT OF CERTIORARI, TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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May It Please The Court:

Respondent agrees with petitioners that the issue in the present case is of such importance that it should be decided by this Honorable Court.

Respondent, of course, agrees that it is provided under Section 1313 of the Judiciary Act of 1948, that: "The District Courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of Three Thousand Dollars ($3,000.00), exclusive of interest and costs, and arises under the Constitution, Laws or Treaties of the United States.

In the present case, the respondent is a tenant who does not claim to have the required jurisdictional amount set forth by Section 1313 of the Judiciary Act of 1948. This is, however, a suit to enjoin an attempted increase in respondent's rent, in violation of the Federal Housing Act of 1947, as Amended.

Federal jurisdiction was asserted under the provisions of that Act and it is respondent's position that said Act confers necessary jurisdiction without regard to the provisions of said Section 1313 of the Judiciary Act of 1948.

That there have been many decisions where similar provisions under former judiciary acts, as to the jurisdictional amounts, were held to be either offset or qualified by the language of a particular Federal Act is too well known to warrant the citation of authorities in this statement.

The Court of Appeals for the Seventh Circuit, in the case of *Adler* v. *The Northern Hotel Company,* 175 F. (2) 619, held that the 1947 Housing Act was emergency legislation and that the jurisdictional amount specified under the Judiciary Act of 1948 was not required.

Respondent concedes that a different view has been taken by the Courts of Appeals for both the Third and Fifth Circuits, in the cases of *Fields* v. *Washington,* 173 F. (2) 701, and *Steinfeldt* v. *Haymond,* 175 F. (2) 768.

Under these circumstances there is, as petitioners have stated, a confusion which definitely should be eradicated.

At the present time if the petitioners' position is well taken, then both the present petitioners and all others in their category, within the jurisdiction of the Court of Appeals for the Seventh Circuit, are prejudiced because of the fact that their buildings are geographically located within the jurisdiction of the Court of Appeals for that Circuit.

If the respondent's position is well taken, then tenants and leaseholders within the the jurisdiction of the Courts of Appeals for the Third and Fifth Circuits are prejudiced by the fact that they reside within the geographical limits of those Courts.

Such a state of affairs, in fairness to all, should not be allowed to exist, and can only be eliminated by a final decision by this Honorable Court.

Upon that premise and that premise alone respondent joins with petitioners in requesting the issuance of a writ of certiorari, as prayed for by the petitioners, and full opportunity to present the arguments and authorities which we believe fully sustain the decision of the Court of Appeals for the Seventh Circuit.

The present petition for a writ of certiorari is based upon a judgment entered by the United States District Court for the Northern District of Illinois, Eastern Division, for one Edward Mayer, for triple damages. No judgment has been entered for any other of the parties plaintiff, and the question as to whether or not those parties plaintiff were properly joined is not properly before this Honorable Court.

In view, however, of respondent's joinder in the petitioners' prayer for a writ of certiorari and a final determination by this Court of the issue of Federal jurisdiction under the Housing Act, the arguments made by petitioners on the basis of Rule 20 are immaterial and irrelevant and need not be further answered herein.

Respectfully submitted,

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